

CHAPTER 9

DISPOSAL OF FOREIGN EXCESS PERSONAL PROPERTY

A. GENERAL

1. The “Act” makes each Executive agency responsible for disposal of its FEPP-- a distinct category of property not to be confused with "excess and surplus". On a case by case basis, DRMS shall assist the Military Services generators by providing sales services, limited screening, and other disposal support, as may be required. In all cases, DLA will closely coordinate disposal actions with the appropriate Unified Command and the DoS.

2. The DRMO Contingency Operations mission falls under the DLA Contingency Support Team (DCST), and that it responds only when the Director, DLA, is tasked by Commander-in-Chief's Operations Order tasking DCST.

3. FEPP, may be directed/retrograded to the closest DRMO (with prior coordination of the DRMO and receiving DRMO host country). For property located in remote areas without a servicing DRMO, DRMS will determine the type and level of disposal services that can be provided and determine requirements for obtaining contracted disposal services for HW, where necessary. Generating activities should closely coordinate projected property disposal requirements with DRMS.

4. Generators will properly identify (by a Material Safety Data Sheet [MSDS]/HW Profile Sheet [HWPS]) FEPP HP generated overseas and process in according to Chapter 10, Environmentally Regulated and Hazardous Property. Prior to relinquishing accountability and/or physical custody of HP to a DRMO, overseas generators will comply with the applicable requirements as specified in the Final Governing Standards (FGS) established pursuant to the procedures outlined in the OEBGD and DoDI 4715.5.

5. The Excess Property Unit (EPU) of the U.S. Embassy in the Federal Republic of Germany is authorized to obtain excess equipment after it is determined excess to the DoD, ahead of Security Assistance requirements. This authorization applies to excess vehicles, furniture, office equipment, and related general-purpose equipment. Based on a request from the U.S. DoS, this authorization has been extended indefinitely. Accordingly, the EPU may physically screen the aforementioned types of such excess property still on the books of US Army Europe (USAREUR) and USAF Europe (USAFE), i.e., but not yet turned-in to a DRMO. However, receipt and issue documentation shall be processed by the servicing DRMO.

6. Disposal will be coordinated according to Public Law, Executive Direction, Theater Contingency Operations plans, FGSs promulgated in accordance with procedures established in the DoD OEBGD, and applicable host nation and international laws and /or agreements.

7. This chapter applies only to property located outside ZI Note: Existing agreements with Canada may involve separate disposition policy.

B. STATUTORY AUTHORITY. These instructions are based upon the authority for the disposal of foreign excess property as contained in the Federal Property and Administrative Services Act of 1949, as amended (40 USC 511-514), and other pertinent statutes as are referred to here.

C. U.S. FOREIGN POLICY

1. U.S. foreign policy governs the disposition of FEPP whether by sale, donation, or A/D. In order that the foreign policy of the United States to be effectively served in foreign countries, foreign excess disposal programs shall be developed and conducted with the coordination and approval of the U.S.

diplomatic mission in the country concerned. DoD components or their representatives shall maintain close liaison and cooperate with the U.S. diplomatic representatives and consular offices in the country concerned in order to receive necessary approvals, recommendations, and suggestions from the local U.S. DoS representatives.

2. In conjunction with assigned responsibilities DRMS may deviate from prescribed disposal policy where a conflict with country-to-country agreements exists. Proposed deviations shall be reviewed by DRMS/DLA before they are accomplished. Copies of overseas command implementations of bilateral agreements shall be provided to DLSC-LC, 8725 John J. Kingman Road, Suite 4133, Fort Belvoir, VA 22060-6221 and the HQ of the Military Departments concerned.

3. FEPP may not be sold directly or indirectly to denied areas (see DoD 4160.21-M-1).

D. PROCEDURES

1. Screening

a. DRMS will screen FEPP in the same manner as CONUS excess and surplus personal property.

b. Security Assistance Screening. SAOs or representatives of the country where FEPP is located may request items under normal security assistance sales or transfers (DoD 5105.38-M.) These requests should be approved to the degree they contribute to the effective disposal of property. Items may be held until released provided added storage costs are reimbursed to DoD. Use of in-process or implemented Letter of Offer and Acceptance (LOA) may not be available prior to disposal.

c. Transfer and Donation Screening

(1) GSA and other Federal agency representatives are authorized to screen FEPP for return and use in the United States. However, consistent with the "Act", GSA's charter does not extend to property in OCONUS. Accordingly, GSA does not typically approve documents (SF 122) for OCONUS transfers; GSA does approve SF 123s, however. These documents are the preferred method by which DoD, acting within its authority as the executive agency, issues property to authorized customers. The screening, tagging, and property removal standards outlined in chapter 5 shall also apply to FEPP.

(2) Through its on-site representatives, or by other means, GSA or the transferee may arrange for shipment (including containerized loads). The transferee shall be responsible for the actual costs incurred for PCH&T to facilities in the United States, unless other arrangements are made.

2. FMS of FEPP. See Chapter 12, Security Assistance.

3. Disposal of FEPP for substantial benefits or the discharge of claims

a. FEPP (excluding real estate; naval vessels of the following categories: battleships, cruisers, aircraft carriers, destroyers, and submarines; and records of the DoD) may be transferred by the Secretary of Defense to foreign countries for foreign currencies or credits, substantial benefits, or the discharge of claims resulting from the compromise or settlement of such claims, in accordance with the law, when the Secretary of Defense determines that the transfer is in the interests of the United States. DUSD (L) is authorized to approve disposal of FEPP for substantial benefits or the discharge of claims when determined that it is in the interest of the United States.

b. FEPP shall be eligible for disposal for substantial benefits or the discharge of claims after DoD, FMS, and GSA/SASP screening is accomplished as prescribed in this chapter, unless a waiver from DUSD (L) is obtained.

c. Disposal of FEPP for substantial benefits or the discharge of claims shall be accomplished through use of an MOU. MOUs shall incorporate the mandatory restrictions on the ultimate destination,

use, and disposition of the FEPP; identify the items and the value of the items using the higher of its market value as military hardware, or fair value computed using the fair value rates listed below; and identify the tangible nonmonetary benefits to be received by the U.S. Government in exchange for the property. Fair value rates are applied to the established inventory price as listed in the DoD 7000.14-R, DoD Financial Management Regulation, Volume 15, Chapter 7, Section 070304.

d. DUSD (L) shall coordinate with the General Counsel, DoD, in the review and approval of any proposed MOUs.

e. DoD Military Departments shall:

(1) Determine, in coordination with the appropriate Chief of the U.S. Diplomatic Mission, based on local conditions, if it is in the interests of the United States to dispose of DoD FEPP for substantial benefits or the discharge of claims.

(2) Report FEPP at the earliest possible date for DoD reutilization screening, and request expedited screening or waivers of screening when pertinent.

(3) Develop the U.S. Government position and, in coordination with the DoS, conduct disposal negotiations with the recipient country.

(4) Submit proposed MOUs with justification and supporting documentation to the DUSD (L) for review and approval.

f. The Director, DLA, shall:

(1) Provide on-site assistance within reasonable limits of existing resources, to include accepting accountability of FEPP received in-place, and accomplishing transfer of title to the recipient country.

(2) Ensure that all requests for expedited screening or waivers of screening are promptly handled.

E. LIAISON WITH U.S. DoS

1. The “Act” requires that disposition of FEPP conform to the foreign policy of the United States. To prevent delays of proposed sales and to accord appropriate DoS representatives ample opportunity for consideration of possible foreign policy aspects, sales plans or programs should be developed as far in advance of scheduled sale as possible and processed for coordination and approval. To fulfill this requirement, the following procedures for processing sales of FEPP have been coordinated with the DoS.

2. The U.S. diplomatic mission of each country where property for a sale solicitation is located shall be provided a copy of that sale solicitation expeditiously. The U.S. diplomatic mission shall be advised of MLI and MAP excess property that are included in a sale solicitation. U.S. mission personnel for this purpose means American diplomatic or consular representatives in the country whose government wishes to negotiate the purchase of MLIs as designated in the DoS's International Traffic in Arms Regulations. This requirement also applies to MLI scrap regardless of the purchaser.

3. Prior to award, DRMS shall arrange for the appropriate American Embassy or TSC office to conduct I&R checks on successful bidders of MLI/CCLI property, including named purchaser(s) and sub-receiver(s).

F. TYPES OF SALES

1. General

a. Agreements between the U.S. and foreign government usually provide the conditions under which FEPP may be disposed. Sales shall otherwise be conducted in accordance with policy and procedures prescribed in Chapter 7, Sales/RRRP, and any requirements as may imposed by the host country.

b. DoD components should be thoroughly cognizant of existing agreements applicable to the host government to permit expeditious disposition of FEPP.

2. Sales of U.S. Military Mission Property. When U.S. Government owned property assigned to U.S. Armed Forces Attaches at Military Missions becomes foreign excess, it shall be reported to the nearest DRMO. Where the volume is small and the Army, Naval, or Air Force Attaché Post is located away from a DRMO, the Administrative Officer of the diplomatic mission may be requested to conduct or assist in accomplishing the sale. These sales shall be in accordance with TSC procedures and this manual.

G. ABANDONMENT OR DESTRUCTION (see chapter 8, paragraph E).